

United States Court  
Southern District of Texas  
FILED

APR 03 2003

C.H.

Michael N. Milby, Clerk

MDL DOCKET NO. 1446

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

*(Transferred from the United States District Court for the Southern District of New York, Southern District Case No. 02cv8881 (GEL), pursuant to order of the Judicial Panel on Multidistrict Litigation)*

In re ENRON CORPORATION SECURITIES  
LITIGATION

MDL 1446

-----X  
NEWBY, et al.

Civil Case No. H-01-3624 ✓

Plaintiffs,

vs.

ENRON CORPORATION, et al.,

Defendants.  
-----X

This document relates to:  
SILVERCREEK MANAGEMENT INC.;  
SILVERCREEK LIMITED PARTNERSHIP;  
SILVERCREEK II LIMITED;  
OIP LIMITED  
and PEBBLE LIMITED PARTNERSHIP;

Civil Case No. H-02-3185 (MH)

Plaintiffs,

OPPOSITION TO  
MOTION FOR LEAVE OF  
COURT "TO SUPPLEMENT"  
RECORD FILED BY  
GOLDMAN, SACHS & CO.

vs.

SALOMON SMITH BARNEY, et al.

Defendants  
-----X

#1317

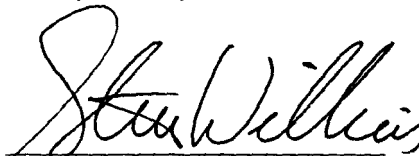
Plaintiffs, Silvercreek Management Inc., Silvercreek Limited Partnership, Silvercreek II Limited, OIP Limited, and Pebble Limited Partnership, OPPOSE the motion of Goldman, Sachs & Company to “supplement” the record as follows:

At the time that the underlying motions were filed, Plaintiffs properly objected to and moved to strike the Gitter Declaration. Goldman Sachs responded – in April of 2002 – by calling the motion to strike “frivolous.” Now that the Court has agreed with Plaintiffs, Goldman Sachs seeks to “supplement” the record – i.e., to properly authenticate the documents which they previously attempted to submit through the Gitter declaration. Goldman Sachs does not cite *any* authority whatsoever in support of the motion, and as such it should be denied. Moreover, the motion should be deemed mooted, as Plaintiffs have sought leave to file an amended complaint. Under the Federal Rules of Civil Procedure, because defendants have never answered the complaint, Plaintiffs have the *right* to amend their pleading. Under the facts before the Court, Goldman Sachs motion should be denied.

DATED: April 1, 2003

Respectfully submitted,

COTCHETT, PITRE, SIMON & McCARTHY

By: 

STEVEN N. WILLIAMS

Admitted *pro hac vice*

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## PROOF OF SERVICE

I am employed in San Mateo County, which is where service of the document(s) referred to below occurred. I am over the age of 18 and not a party to the within action. My business address is Cotchett, Pitre, Simon & McCarthy, San Francisco Airport Office Center, 840 Malcolm Road, Suite 200, Burlingame, California 94010. I am readily familiar with Cotchett, Pitre, Simon & McCarthy's practices for the service of documents. On this date, I served or caused to be served a true copy of the following document(s) in the manner listed below:

### OPPOSITION TO MOTION FOR LEAVE OF COURT "TO SUPPLEMENT" RECORD FILED BY GOLDMAN, SACHS & CO.


X **BY MAIL:** I am readily familiar with Cotchett, Pitre, Simon & McCarthy's practice for the collection and processing of documents for mailing. Following that practice, I caused the sealed envelope containing the aforementioned document(s) to be deposited in the mail at my business address, addressed as specified below. Postage thereon was fully prepaid. The envelope was deposited with the United States Postal Service on that same day in the ordinary course of business.

### SEE ATTACHED LIST

— **HAND DELIVERY:** I am readily familiar with Cotchett, Pitre, Simon & McCarthy's practice for causing documents to be served by hand delivery. Following that practice, I caused the sealed envelope containing the aforementioned document(s) to be hand delivered to the addressee(s) specified below.

— **BY OVERNIGHT COURIER SERVICE:** I am readily familiar with Cotchett, Pitre, Simon & McCarthy's practice for causing documents to be served by overnight courier. Following that practice, I caused the sealed envelope containing the aforementioned document(s) to be delivered via overnight courier service to the addressee(s) specified below.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed at Burlingame, California, on April 2, 2003.

  
Linda A. Clark

**SILVERCREEK MANAGEMENT INC. V. SALOMON SMITH BARNEY, INC., et al.**  
**UNITED STATES DISTRICT COURT**  
**SOUTHERN DISTRICT OF TEXAS**  
**HOUSTON**  
**CASE NO. H-02-3185**

**ATTACHED LIST**

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